

REMARKS

Claims 13-36 were previously pending in the application. This Amendment amends claim 24, 32, 33, and 35. Claims 13-23, 25-31, 34, and 36 remain unchanged. Claims 13, 26, and 35 are independent.

Entry of this Amendment is proper because it does not raise any new issues requiring further search by the Examiner, narrows the issues on appeal, and is believed to place the present application in condition for immediate allowance.

Allowed Subject Matter:

Applicants gratefully acknowledge the Office Action's indication that claim 36 would be allowable if rewritten independent form.

The Rejections under 35 U.S.C. § 112, second paragraph

The Office Action rejects claims 32 and 35 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This Amendment amends claims 32 and 35 to more particularly point out and distinctly claim the subject matter which applicant regards as the invention, thereby overcoming this rejection.

Applicants respectfully request withdrawal of this rejection.

Claim Rejection under 35 U.S.C. § 112, first paragraph

The Office Action rejects claims 32 and 35 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

This Amendment amends claims 32 and 35 to clarify that each of the plurality of wall sections of the surrounding wall along a longitudinal edge of the support plate is located diametrically opposite to a recess of the surrounding wall, as clearly disclosed in

the original application. See, e.g., Figures 1-3; see also paragraphs [008], [021], and [026].

Claims 32 and 35 clearly are supported by the original disclosure, and therefore, certainly comply with the written description requirement. Applicants respectfully request withdrawal of this rejection.

The Claimed Invention

An exemplary embodiment of the claimed invention, as recited by, for example, independent claim 13, is directed to an egg tray for a refrigerator, comprising a support plate in which a plurality of receptacles for respectively one egg is formed, and a wall surrounding the support plate, wherein the receptacles are formed by openings in the support plate and that the surrounding wall is divided into a plurality of wall sections separated by recesses.

Another exemplary embodiment of the claimed invention, as recited by, for example, independent claim 26, is directed to an egg tray set for a refrigerator, comprising a first egg tray and a second egg tray, each egg tray having a support plate in which a plurality of receptacles for respectively one egg is formed, and a wall surrounding the support plate, wherein the receptacles are formed by openings in the support plate and that the surrounding wall is divided into a plurality of wall sections separated by recesses; a handle projecting upwardly from the support plate of each egg tray above its center of gravity and a slit is formed in the support plate of each egg tray, the handle of one of the egg trays being receivable through the slit of the other egg tray to interconnect the egg trays; and the first and second egg trays being stackable with one another by engagement of the wall sections of one of the egg trays into the recesses of the other egg tray.

In this manner, the present invention provides an egg tray having openings in the support plate, thereby providing effective cooling of the lower area of each egg mounted therein. The surrounding wall is divided into a plurality of wall sections separated by

recesses, thereby providing free access of cold air to the lower end of each egg mounted in each opening. See, e.g., page 2, lines 5-6, paragraph [006].

The Rejections under 35 U.S.C. § 103

In the Office Action, claims 13-32, 34, and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fierek et al. reference (U.S. Patent No. 5,669,498) in view of the Cox et al. reference (U.S. Patent No. 5,344,023). Claim 33 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fierek et al. reference, the Cox et al. reference, and further in view of the Peebles reference (U.S. Patent No. 3,392,874).

Applicants respectfully traverse these rejections.

The Rejection over the Fierek et al. reference in view of the Cox et al. reference

Claims 13-32, 34, and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fierek et al. reference in view of the Cox et al. reference.

Applicants respectfully traverse this rejection.

Independent Claim 13

Applicants respectfully submit that none of the applied references discloses or suggests the features of the claimed invention including an egg tray for a refrigerator a refrigerator, comprising a support plate in which a plurality of receptacles for respectively one egg is formed, and a wall surrounding the support plate, wherein the receptacles are formed by openings in the support plate and that the surrounding wall is divided into a plurality of wall sections separated by recesses, as recited in independent claim 13.

As explained above, these features are important for providing an egg tray having openings in the support plate, thereby providing effective cooling of the lower area of each egg mounted therein. The surrounding wall is divided into a plurality of wall sections separated by recesses, thereby providing free access of cold air to the lower end of each egg mounted in each opening. See, e.g., page 2, lines 5-6, paragraph [006].

The Office Action alleges that the Fierek et al. reference discloses a wall 102 surrounding the support plate 68, 70, 72, 74, and that the surrounding wall 102 is divided into a plurality of wall sections separated by recesses 80, 82, 84, 86. The Office Action alleges that the Cox et al. reference discloses forming openings in the support 28.

Contrary to the assertions in the Office Action, Applicants respectfully submit that one of ordinary skill in the art would not have had an apparent reason to combine the Fierek et al. reference and the Cox et al. reference in the manner alleged to arrive at the claimed invention. Moreover, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art. If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. See M.P.E.P. § 2143.01.

The Fierek et al. reference discloses a tool organizer having compartments 18, 20, 22, and 24 for holding tools and accessory items of all shapes and sizes, such as nails, screws, bolts, and other accessories. See, e.g., col. 2, lines 52-65. Applicants respectfully submit that one of ordinary skill in the art clearly would not have had an apparent reason to modify the compartments 18, 20, 22, and 24 of the Fierek et al. reference to include openings, as taught by Cox et al., since these openings would render the Fierek et al. reference unsatisfactory for its intended purpose of holding tools and accessory items of all shapes and sizes, such as nails, screws, bolts, and other accessories. Hence, there is no suggestion or motivation to make the proposed modification. See M.P.E.P. § 2143.01.

Moreover, if the openings of the Cox et al. reference were provided in the support plate 68, 70, 72, 74 of the Fierek et al. reference, then the lower end of each of the eggs clearly would be exposed below the alleged support plate 68, 70, 72, 74 and vulnerable to damage. In the Fierek et al. reference, the surrounding wall 102 extends upward from the

support plate 68, 70, 72, 74. Thus, the alleged recesses 80, 82, 84, 86 would expose the lower ends of the eggs to possible damage and would not suggest this feature to one of ordinary skill in the art.

Moreover, Applicants respectfully submit that there is nothing in the Fierek et al. reference or the Cox et al. reference that would suggest the claimed combination to one of ordinary skill in the art, or that even recognizes the problems being solved by the present invention.

For example, as shown in Figures 4-8 of the Fierek et al. reference, the alleged recesses 80, 82, 84, 86 have absolutely nothing to do with providing access to cold air to the lower end of each egg mounted in the alleged openings. If the opening of the Cox et al. reference were provided in the support plate 68, 70, 72, 74 of the Fierek et al. reference, then the lower end of each of the eggs clearly would be exposed below the alleged support plate 68, 70, 72, 74. In the Fierek et al. reference, the surrounding wall 102 extends upward from the support plate 68, 70, 72, 74. Thus, the alleged recesses 80, 82, 84, 86 have no affect on the lower ends of the eggs and would not suggest this feature to one of ordinary skill in the art when combined with the Cox et al. reference.

Moreover, in stark contrast to the claimed invention, the alleged recesses 80, 82, 84, 86 of the Fierek et al. reference would serve to limit access to cold air to the upper end of each egg mounted in the alleged openings. The alleged recesses 80, 82, 84, 86 would not promote access to cold air, since the side panels 112 clearly would obstruct or prevent access to air from the alleged recesses 80, 82, 84, 86 to the upper end of each egg mounted in the alleged openings.

The Cox et al. reference also does not teach or suggest dividing the surrounding wall into a plurality of wall sections separated by recesses in order to provide access to cold air to the lower end of each egg mounted in the alleged openings. Instead, the Cox et al. reference teaches only an uninterrupted peripheral wall 32 surrounding the alleged plate 28.

For at least these reasons, none of the applied references discloses or suggests the claimed invention to one of ordinary skill in the art. Indeed, the applied references have nothing to do with the problems being addressed and solved by the claimed invention.

Furthermore, in the Response to Arguments (pages 11-12, bridging paragraph), the Office Action acknowledges that the end section of the walls above the recesses in Figures 4 or 5 are considered to be wall sections that are diametrically opposite to the alleged recess formed in another wall section. Based on this interpretation, the Fierek et al. reference clearly fails to disclose a plurality of wall section separated by recesses formed in the wall surrounding the support plate. Indeed, if the portion above the alleged recess is a wall section, then the wall sections are not actually separated from each other by the recesses, as claimed. Rather, the wall sections are still joined to each other across the top of each alleged recess to form a single wall section and there is no separation between wall sections.

Thus, none of the applied references discloses or suggests all of the features of independent claim 13.

Applicants respectfully request withdrawal of this rejection.

Independent Claim 26

Furthermore, none of the applied references discloses or suggests at least an egg tray set for a refrigerator, as recited in independent claim 26.

Claim 26 recites a first egg tray and a second egg tray, each egg tray having a support plate in which a plurality of receptacles for respectively one egg is formed, and a wall surrounding the support plate, wherein the receptacles are formed by openings in the support plate and that the surrounding wall is divided into a plurality of wall sections separated by recesses; a handle projecting upwardly from the support plate of each egg tray above its center of gravity and a slit is formed in the support plate of each egg tray, the handle of one of the egg trays being receivable through the slit of the other egg tray to interconnect the egg trays; and the first and second egg trays being stackable with one another by engagement of the wall sections of one of the egg trays into the recesses of

the other egg tray. Emphasis added. In this manner, the present invention provides an extremely stable and space-saving stacking of the first and second egg trays. See, e.g., page 2, lines 20-21; paragraph [008].

As shown in Figure 10 of the Fierek et al. reference, the walls 102 that surround the alleged support plate 68, 70, 72, 74 of a first egg tray clearly do not engage the alleged recesses 80, 82, 84, 86 of a second egg tray when stacked together. Instead, the trays rest on top of each other.

Moreover, even if the trays were nested within each other, the walls 102 that *surround* the alleged support plate 68, 70, 72, 74 of a first egg tray clearly **do not engage the alleged recesses** 80, 82, 84, 86 of a second egg tray when stacked together. Indeed, the walls 102 clearly would not fit into the recesses 80, 82, 84, 86 of a second egg tray.

In the Response to Arguments, the Office Action asserts that:

“Examiner never referenced fig. 10, it is a different embodiment. The “term “engage” interpreted by examiner as “To interlock or cause to interlock”. The functional language is met when two of the containers of the combination applied to the claim would be stacked. The structure defined in the rejection meets the broad interpretation of cause to interlock. The language of “fit” is not claimed and the argument has not proven novelty or non-obviousness.”

First, contrary to the assertions in the Response to Arguments, Figure 10 is not a different embodiment. See, e.g., col. 2, lines 46-48, and col. 3, lines 47-56. Rather, Figure 10 shows a nested arrangement of the tool organizers of the Fierek et al. reference, as shown in Figures 1-9.

Second, Applicants note that a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. Hence, the Fierek et al. reference must be considered as a whole, including

Figure 10, for what it fairly teaches one of ordinary skill in the art, irrespective of whether Figures 10 is specifically relied upon by the Office Action.

Third, contrary to the assertions in the Response to Arguments, claim 26 does not merely recite that two containers are stacked together and engage one another. Rather, claim 26 specifically recites that “the first and second egg trays being stackable with one another by *engagement of the wall sections* of one of the egg trays *into the recesses of the other egg tray*.” Emphasis added. Hence, Applicants respectfully submit that the interpretation in the Office Action of the term “engage” still fails to show how the combination of the Fierek et al. reference and the Cox et al. reference would teach engaging the wall sections into the recesses of the other egg tray, according to the claimed invention.

Additionally, Applicants respectfully submit that none of the applied references discloses or suggests a handle projecting upwardly from the support plate of each egg tray above its center of gravity and a slit being formed in the support plate of each egg tray, the handle of one of the egg trays being receivable through the slit of the other egg tray to interconnect the egg trays, as recited in claim 26. Contrary to the assertions in the Response to Arguments of the Office Action, the Fierek et al. reference clearly does not disclose or suggest a slit formed in the egg tray that receives the handle of another egg tray. Instead, the Fierek et al. reference explicitly discloses a hollow interior 28 of the handle 26, not a slit. See, e.g., col. 5, lines 43-45.

Furthermore, Applicants note that, in the Response to Arguments (pages 11-12, bridging paragraph), the Office Action acknowledges that the end section of the walls above the recesses in Figures 4 or 5 are considered to be wall sections that are diametrically opposite to the alleged recess formed in another wall section. Based on this interpretation, the Fierek et al. reference clearly fails to disclose a plurality of wall section separated by recesses formed in the wall surrounding the support plate. Indeed, if the portion above the alleged recess is a wall section, then the wall sections are not actually separated from each other by the recesses, as claimed. Rather, the wall sections are still

joined to each other across the top of each alleged recess to form a single wall section and there is no separation between wall sections.

Thus, none of the applied references discloses or suggests all of the features of independent claim 26.

Applicants respectfully request withdrawal of this rejection.

Independent Claim 35

None of the applied references discloses or suggests an egg tray for a refrigerator, comprising a support plate having an upper surface and a lower surface, the support plate including a plurality of receptacles, each for respectively supporting one egg, the receptacles being openings formed in the support plate; a handle extending from the upper surface of the support plate; and a wall surrounding the support plate, the wall including a plurality of wall sections separated by recesses formed in the wall surrounding the support plate, wherein the plurality of wall sections extend downward from the support plate in a direction opposite from the handle, and wherein each of the plurality of wall sections of the wall surrounding the support plate and disposed along a longitudinal edge of the support plate is located diametrically opposite to one of the recesses formed in the wall surrounding the support plate, as recited in independent claim 35.

The Fierek et al. reference clearly does not disclose or suggest that the plurality of wall sections extend downward from the support plate in a direction opposite from the handle. Instead, in the Fierek et al. reference, the wall sections 102 clearly extend upward from the alleged support plate 68, 70, 72, 74.

Moreover, as shown in Figures 2 and 3, the Fierek et al. reference clearly does not disclose or suggest wherein each of the plurality of wall sections of the wall surrounding the support plate is located diametrically opposite to one of the recesses formed in the wall surrounding the support plate, as recited in independent claim 35. Instead, each of the wall sections 102 clearly is located diametrically opposite to another wall section 102, not to a recess 80, 82, 84, 86.

In the Response to Arguments (pages 11-12, bridging paragraph), the Office Action acknowledges that the end section of the walls above the recesses in Figures 4 or 5 are considered to be wall sections that are diametrically opposite to the alleged recess formed in another wall section. Based on this interpretation, the Fierek et al. reference clearly fails to disclose a plurality of wall section separated by recesses formed in the wall surrounding the support plate. Indeed, if the portion above the alleged recess is a wall section, then the wall sections are not actually separated from each other by the recesses, as claimed. Rather, the wall sections are still joined to each other across the top of each alleged recess to form a single wall section and there is no separation between wall sections.

Thus, none of the applied references discloses or suggests all of the features of independent claim 35.

Applicants respectfully request withdrawal of this rejection.

Claims 14-25, 27-32, and 34

Applicants respectfully submit that none of the applied references discloses or suggests the features of claims 14-25, 27-32, and 34 for at least the reasons set forth above, as well as for the additional features recited therein.

For example, none of the applied references discloses or suggests at least that a section of the circumference of the support plate on which an upright wall section is arranged so that it projects over the circumference is located *diametrically opposite* to a section of the circumference on which a recess is located, as recited in claim 15.

Instead, as shown in Figures 2 and 3, the Fierek et al. reference clearly does not disclose or suggest that the wall sections are located *diametrically opposite* to a section of the circumference on which a recess is located. Instead, each of the wall sections 102 clearly is located diametrically opposite to another wall section 102, not to a recess 80, 82, 84, 86.

Moreover, in the Response to Arguments (pages 11-12, bridging paragraph), the Office Action acknowledges that the end section of the walls above the recesses in

Figures 4 or 5 are considered to be wall sections that are diametrically opposite to the alleged recess formed in another wall section. Based on this interpretation, the Fierek et al. reference clearly fails to disclose a plurality of wall section separated by recesses formed in the wall surrounding the support plate. Indeed, if the portion above the alleged recess is a wall section, then the wall sections are not actually separated from each other by the recesses, as claimed. Rather, the wall sections are still joined to each other across the top of each alleged recess to form a single wall section and there is no separation between wall sections.

Thus, none of the applied reference discloses or suggests at least the features of claim 15. Applicants submit that these features are important for providing an egg tray that can be stacked with a second egg tray in a configuration twisted by 180° with respect to one another, where respectively one wall section of one egg tray engages in a gap between two wall sections of the other egg tray, thereby providing an extremely stable and space-saving stacking of the egg trays. See, e.g., page 2, lines 13-21; paragraph [008].

Similar to independent claim 26, claim 21 recites that the two egg trays can be stacked by engagement of the wall sections of one of the egg trays into the recesses of the other egg tray. Thus, none of the applied references discloses or suggests the features of claim 21 for at least the same reasons as set forth above with respect to claim 26.

Similar to independent claim 26, claim 23 recites that a slit is formed in the support plate through which a handle of a second egg tray can be passed. Thus, none of the applied references discloses or suggests the features of claim 23 for at least the same reasons as set forth above with respect to claim 26.

Moreover, none of the applied references discloses or suggests at least wherein the support plate has an upper surface and a lower surface, and wherein the wall sections project over the circumference of the support plate and downward from the support plate in a direction opposite from the upper surface, as recited in claim 31. Instead, in the Fierek et al. reference, the wall sections 102 clearly extend upward from the alleged support plate 68, 70, 72, 74.

As explained above, none of the applied references discloses or suggests at least each of the plurality of wall sections of the surrounding wall is located diametrically opposite to a recess of the surrounding wall, as recited in claim 32.

None of the applied references discloses or suggests at least that, when the egg tray and the second egg tray are twisted 180° with respect to each other and stacked together, the plurality of wall sections of the egg tray engage the recesses of the second egg tray and the plurality of second wall sections of the second egg tray engage the recesses of the egg tray, as recited in claim 34. Instead, as shown in Figure 10 of the Fierek et al. reference, the walls 102 that surround the alleged support plate 68, 70, 72, 74 of a first egg tray clearly do not engage the alleged recesses 80, 82, 84, 86 of a second egg tray when stacked together. Instead, the trays rest on top of each other. Moreover, even if the trays were nested within each other, the walls 102 that *surround* the alleged support plate 68, 70, 72, 74 of a first egg tray clearly do not engage the alleged recesses 80, 82, 84, 86 of a second egg tray when stacked together. Indeed, the walls 102 clearly would not fit into the recesses 80, 82, 84, 86 of a second egg tray.

For at least these reasons, Applicants respectfully submit that the features of claims 14-25, 27-32, and 34 are not rendered obvious from the applied references.

Applicants respectfully request withdrawal of these rejections.

The Rejection over the Fierek et al. reference, the Cox reference, and the Peeples reference

Claim 33 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fierek et al. reference, the Cox et al. reference, and further in view of the Peeples reference.

Applicants respectfully traverse this rejection.

The Fierek et al. reference and the Cox reference do not teach or suggest the features of independent claim 13, from which claim 33 depends. The Peeples reference does not remedy the deficiencies of the Fierek et al. reference and the Cox reference with

respect to claim 13. Therefore, claim 33 is patentable over these references at least by virtue of its dependency from claim 13.

Moreover, contrary to the assertions in the Office Action, the Peebles reference clearly fails to disclose wherein the handle is a plate, and wherein *only one surface* of the handle is directly adjacent to the slit, as recited in claim 33. Emphasis added.

Instead, as clearly shown in Figures 1-3, and particularly Figure 2, the Peebles references discloses that *both sides* of the alleged plate handle 16e are directly adjacent to the slit 15, since the alleged plate handle is disposed in the middle of the slit.

The Office Action appears to be alleging that the other handles assembled together somehow result in only one side of the plate handle 16e allegedly being directly adjacent to the slit 15. However, claim 33 recites the features of the handle and slit of the same plate. Therefore, the position of the handles of *other* plates is irrelevant to claim 33.

As shown in Figure 2, each individual plate has a plate handle 16e and a slit 15, and in each case, the alleged plate handle is disposed within the middle of the slit 15 such that both sides of the plate handle 16e clearly are directly adjacent to the slit 15.

For at least the foregoing reasons, none of the applied references, either individually or in combination, renders obvious the features of claim 33.

Applicants respectfully request allowance of these claims.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of Claims 13-36 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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